

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6363 of 1984

Date of decision: 11-7-97

For Approval and Signature

The Hon'ble Mr. Justice S. K. KESHOTE

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

-----  
MANIBHAI & BROTHERS

Versus

STATE OF GUJARAT  
-----

Appearance:

MR S. P. Sen for Petitioner

Mr. S.R. Divetia for Respondent No. 1, 2  
-----

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 11/07/97

#### ORAL JUDGEMENT

It is really a sorry state of affair that neither the petitioners' counsel nor the counsel for the respondents has the papers of the matter. In case the advocates appear in high court without the case papers, leaving apart the question of disrespect to the court, it is not befitting the professional duty of the advocates.

The counsel for the petitioners submitted that the papers are not traceable in his office. It can hardly be said to be justifiable reason. It is not unknown to this Court that when court's papers are not available in the matter, advocates apply for reconstruction of the file. Then, what was the difficulty for the petitioners' advocate for reconstructing the matter if the papers are not traceable in his office. The counsel for the petitioner then submitted that even the file is not available with the respondent and as such how he could have reconstructed the file. This submission has also no substance. The court's file is there in this case, and he could have obtained certified copy of the papers. Be that as it may. The counsel for the petitioner and the respondents may not have to stand to their commitment to their clients, but this court has to stand to its commitment to the litigants who come before this Court.

This matter is of the year 1984. Even if assistance is not forthcoming from either side, the Court has to discharge its duties. Perused the special civil application.

1. The petitioners in this special civil application have prayed for the following relief:

"to direct the respondents to cancel the Government Resolution dated September 15, 1982, Annexure-I, in so far as it affects the petitioner's industry, and be pleased to direct the respondents to treat the petitioners' industry as being eligible for the benefit of the sales-tax deferment scheme as announced by the Government Resolution dated March 18, 1982 and as per entries 117 and 118 in the notifications issued under section 49 of the Gujarat Sales Tax Act, 1969 and be further pleased to direct the respondents not to recover any amount as sales tax from the petitioners till January 27, 1994, as per the sales tax deferment scheme"

The special civil application has been admitted by this

Court on 12th December, 1984 and the interim relief has been granted, which continued for all these years. So in view of the interim relief granted by this Court, despite resolution dated 15th December, 1982, the sales tax could not have been collected from the petitioner by respondents till 27th January, 1994, as per the scheme which confer benefits of sales tax deferment. As announced under resolution dated 12th April, 1982 deferment of sales tax could have been only upto 21st December, 1994 and thereafter the respondents are entitled to recover sales tax for the period earlier to that also, as the scheme is only for deferment of sales tax. In view of the interim relief which has been granted by this Court, now nothing survives in this petition, and in fact it has become infructuous.

2. In the result this special civil application is dismissed as having now become infructuous, in view of the interim relief granted by this Court. Rule discharged. No order as to costs.

....

csm